



राजपत्र, हिमाचल प्रदेश (असाधारण)

हिमाचल प्रदेश राज्य शासन द्वारा प्रकाशित

शिमला, शनिवार, 6 दिसम्बर 2003/15 अग्रहायण, 1925

IN THE HON'BLE HIGH COURT OF HIMACHAL PRADESH AT SHIMLA
ORIGINAL JURISDICTION

Company Petition 10 of 2003

In the matter of :

Nirmala Devi and others

.. Petitioners.

Versus

Notice to :—

1. H. P. Agriculture Farms and Forests Ltd. through its M.D., S.F.L. Complex, The Mall, Solan (H.P.)

2. Virender Jaswal, M. D., H. P. Agriculture Farms and Forests Ltd., r/o 179, Power House Road, Saproon, Solan (H.P.)

3. Madam Lal Sharma, Director, H. P. Agriculture Farms and Forests Ltd., r/o Village Shanti, Solan (H.P.)

.. Respondents.

Notice is hereby given that a petition for winding up of the above named Company by the High Court of H.P. at Shimla was on the 12-6-03 day of 2003 of presented to the said Court by

Nirmala Dev w/o Sh. Rattan Chand, r/o V.P.O. Nearti, Tehsil Shahpur, Distt. Kangra (H. P.); Sunil Dutt s/o B. D. Sharma, r/o V. P. O. Shamti, Solan (H.P.); Mohinder Singh s/o Shri Pritam Singh, r/o V. P. O. Badehri, via Totu Shimla (H. P.); Joginder Pal s/o Lakh Raj Sharma, r/o Set No. 12, Type 2, Government Colony Bemloe, Shimla (H. P.) and Vandana d/o Joginder Pal, r/o Set No. 12, Type 2, Government Colony Bemloe Shimla (H. P.) i. e. creditors and that the said petition is directed to be heard before the court on 26th day of December, 2003.

Any creditor, contributory, or other person desirous of supporting or opposing the making of an order on the said petition should send to the petitioner or his advocate notice to his intention signed by him or his advocate with his name and address, so as to reach the petitioners or their advocate not later than 5 days before the date fixed for the hearing of the petition, and appear at the hearing for the purpose in person or by his advocate. A copy of the petition will be furnished by the undersigned to any creditor or contributory on payment of the prescribed charges for the same.

Any affidavit intended to be used in opposition to the petition should be filed in court, and a copy served on the petitioners or their advocate not less than 5 days before the date fixed for the hearing.

Seal.

Sd/-
RAJESH MANDHOTRA, Advocate,
Hotel Diplomat Complex,
Lakkar Bazar, Shimla.

IN THE HON'BLE HIGH COURT OF HIMACHAL PRADESH AT SHIMLA

Company Application No. of 2003

IN

Company Petition No. 10 of 2003

AMENDED MEMO. OF PARTIES

IN THE MATTER OF:

1. Nirmala Devi w/o Shri Rattan Chand, r/o VPO NEARTI, Tehsil Shahpur, District Kangra, H. P.
 2. Sunil Dutt s/o Shri B. D. Sharma, r/o VPO SHAMTI, Tehsil & District Solan, H. P.
 3. Mohinder Singh s/o Shri Pritam Singh, r/o VPO BADEHRI via Tutu, Shimla, H. P.
 4. Joginder Pal s/o Shri Lakh Raj Sharma, Set No. 12, Type-II Government Colony, Bemloe, Shimla-171001 (H. P.)
 5. Vandana d/o Shri Joginder Pal, Set No. 12, Type-II, Government Colony, Bemloe, Shimla-171001 (H. P.)
- ... Petitioners.

AND

1. H. P. Agriculture Farms & Forests Ltd. through its Managing Director, S. F. L. Complex, The Mall, Solan (H. P.)
2. Shri Virender Jaswal, Managing Director, H. P. Agriculture Farms & Forests Ltd., S. F. L. Complex, The Mall, Solan (H. P.), r/o 179, Power House Road, SAPRCCN, Solan (H. P.)

3. Shri Madan Lal Sharma, Director, H. P. Agriculture Farms & Forests Ltd., S. F. L. Complex, The Mall, Solan (H. P.) r/o SHAMTI, P. O. Tehsil & District Solan (H. P.) .. Respondents.

COMPANY PETITION U/S 433 OF COMPANIES ACT, 1956 FOR WINDING UP THE RESPONDENT COMPANY IN THE FACTS AND CIRCUMSTANCES NARRATED HEREIN BELOW.

Petitioner.

Through Counsel

Shimla,
20-8-2003

(RAJESH MANDHOTRA)
Advocate.

MAY IT PLEASE YOUR LORDSHIPS :

1. That the addresses of the petitioners for the purpose of service of all the notices processes and affidavits are C/o Shri Rajesh Mandhotra, Advocate. Office Hotel: Diplomat Complex, Lakkar Bazar, Shimla-171001.

2. That the registered office of the Company hereinafter called the Company is at SFL Complex, The Mall. Solan-173212, H. P.

3. That the respondent Company is incorporated at S. No. 6-18838 of 1996 by the Registrar, Co-operative Punjab, Himachal & Chandigarh under the Companies Act, 1956 as H. P. Agriculture Farms & Forests Ltd., on 26-9-1996. Certificate of incorporation is placed on file as Annexure P-1. The main objects of the Company are stated in Annexure P-2. Memo. of Articles of Association of the respondent Company is placed as Annexure P-3. The petitioners have got the memo. of Articles of Association of the Company from which facts are stated hereinafter.

4. That earlier the respondent Company had been receiving deposits but is was subsequently prohibited from receiving the deposits and the Company hereinafter did not receive any deposits and it is pursuing other course of business.

5. That it is further submitted that the respondent Company may receive deposits from the members as well as from public depositors subject to the directions of the Reserve Bank of India but Reserve Bank of India did not allow the respondent Company to accept deposits and it has not received or accepted any deposit w. e. f. July 1999. This information has been received by the petitioners from the office bearer of the Company.

6. That the petitioners are creditors of the respondent Company and having invested the amount which is detailed herein below :—

Petitioner No. 1	.. Rs. 10,000
Petitioner No. 2	.. Rs. 10,000
Petitioner No. 3	.. Rs. 8,000
Petitioner No. 4	.. Rs. 12,000
Petitioner No. 5	.. Rs. 5,000

7. That the F D R of the petitioners matured on 24-5-2001, 29-1-2001, 29-4-2001, 30-12-2002 and 21-2-2002 respectively and after maturity the petitioners are entitled to receive the amount together with interest. As the Respondent Company has failed to return the amount and on this the petitioners got legal notices U/S 434 of Companies Act issued on 20-8-2002 through

their Advocate, copy of the notices are placed on record as *Annexure P-4 to P-8* which were issued by the petitioner's Advocate. These notices were sent through Registered A. D., copy of the postal receipts are attached herewith as *Annexure P-9* respectively. However all these notices have been received back with the report "unclaimed" and all these envelopes are annexed as *Annexure P-10 to Annexure P-14* respectively, thereafter the petitioners got served legal notices U/S 434 of Companies Act by delivering the same in the office of the respondent Company. Till date the respondent Company has failed to pay the amount to the petitioners despite the fact that more than six months have lapsed and the debt due to the petitioners from the Respondent Company has not been repaid, as such the petitioners are entitled to request this Hon'ble Court to wind up the Respondent Company which liability Respondent Company has incurred U/S 433 (e) of the Companies Act. Photostat copies of the FDRs/receipt of the amount of the petitioners are annexed herewith as *Annexure P-15 to P-19* respectively. The petitioners till date neither received any reply nor any amount which is due to them.

8. That there is not possibility of repaying the debt to the petitioners by the Respondent Company as the respondent Company is defaulter in making the payment and this is clear from the statement of facts stated herein above as such it has incurred liability of the Company being wind up U/S 434 of the Companies Act for the reasons mentioned in Section 433 of the Companies Act.

9. That from the facts and circumstances narrated hereinabove and in the interest of justice the petitioners and general public this Hon'ble Court may be pleased to order the Company to be wind up as per the provisions of the Companies Act, 1956.

10. That the Professional Liquidator attached to this Hon'ble Court may be appointed for the assets, property, books of account papers etc. under the Companies Act.

It is, therefore respectfully prayed that—

- (i) the respondent Company may be ordered to be wound up and the Official Liquidator attached to this Hon'ble Court or any other person which this Hon'ble Court may deem fit, just and proper, may be appointed as Liquidator of the Company.
- (ii) That the petition may be allowed with costs and other relief which this Hon'ble Court deems fit and proper facts and circumstances of the case may also be granted.

Petitioners.

Through Counsel

(RAJESH MANDHOTRA)

Advocate.

Shimla April, 2003.

IN THE HON'BLE HIGH COURT OF HIMACHAL PRADESH AT SHIMLA

Company Petition No. 10 of 2003

THE MATTER OF:

Nirmala Devi & others

..Petitioners.

AND

H. P. Agriculture Farms & Forests Ltd., through its Managing Director, S. F.
Complex, The Mall, Solan (H. P.)

..Respondent

AFFIDAVIT

I, Nirmala Devi w/o Shri Rattan Chand, aged 60 years, r/o VPO Shamti, Tehsil & District Solan, H. P, C/o Shri Rajesh Mandhotra, Advocate, Diplomat Complex, Lakkar Bazar, Shimla-171001 (H. P.) do hereby, solemnly affirm and declare on oath as under :—

1. That the accompanying application been drafted under my instructions and at my instance and the contents in paras 4 to 10 are true and correct to the best of my knowledge and belief.
2. That the contents of this affidavit are true and correct to the best of my knowledge and belief, no part of it is false and nothing material has been concealed therefrom.

Verified at Shimla on this.....th day of April, 2003.

Deponent.

